IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 756 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

1 to 5 NO

A. N. MANKAD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 756 of 1991

MR DHIRENDRA MEHTA for Petitioner No. 1

MR RS CHHAYA for Petitioner No. 1

MS MANISHA LAVKUMAR AGP for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 16/04/2004

C.A.V. JUDGEMENT

1. This petition under Article 226 of the Constitution by the ex-President of the Gujarat Co-operative Tribunal is made with a prayer to declare

the Government Resolution dated 16.10.1989 to be discriminatory, arbitrary, illegal, unjust and ultra vires insofar as it fixed the honorarium of the petitioner at Rs.3,100/- per month and not Rs.4,000/- per month with effect from 1.1.1986. That government resolution is based upon the Circular dated 19.8.1988 of the Finance Department, Government of Gujarat issued for computation of honorarium to the Chairman/President and Members of various Tribunals on re-employment basis. It is also prayed that the State Government may be directed to insert a rider in the aforesaid circular dated 19.8.1988 to add therein the words that would entitle the president to draw minimum honorarium of Rs.4,000/- per month. The claim of minimum honorarium of Rs.4,000/- is admittedly based upon the resolution dated 11.2.1988 (Annexure-A) which revised, enhanced and prescribed the ceiling limit of Rs.4,000/- per month.

2. By filing a detailed affidavit of the Deputy Secretary (Credit), Agriculture and Co-operation Department, Gandhinagar, it is, inter alia, stated for the respondent that the petitioner had two options, viz. (1) to receive honorarium as computed as per the circular dated 19.8.1988 + D.A., H.R.A., C.L.A. and (2) 75% of the value of honorarium + pension as per government resolutions dated 25.5.1971 and 11.2.1988. The petitioner had opted for honorarium as per government circular dated 19.8.1988. It is also stated that a retired government servant appointed as President or a Member of the Tribunal has been placed at par for honorarium as per the government resolution dated 4.12.1979. The government circular dated 19.8.1988 provides as to how honorarium should be fixed for President and a Member of the Tribunal who retired before 1.1.1986 and is under re-employment on 1.1.1986. Though there is an option for the President and a Member to get honorarium either as per government resolutions dated 25.5.1971 and 11.2.1988, or as per government resolutions dated 7.12.1979 and 19.8.1988, as the case may be, both sets have no relation with each other. The petitioner has tried to mix up both these provisions for his own interests. It was also fairly clear that even the government resolution dated 11.2.1988 prescribed the ceiling limit and not the minimum amount of honorarium and, in any case, the honorarium of the petitioner was not fixed on the basis of that government resolution on account of the other option having been exercised by himself.

3. In the above facts, the petition is wholly misconceived and, therefore, rejected. Rule is

discharged with no order as to costs.

Sd/-

(D.H.Waghela,J.)

(KMG Thilake)